

Application No.: 09/699,922

Docket No.: 00-4026

REMARKS

Claims 1-20 and 24 are pending. Claims 7 and 17 are amended herein. Applicant thanks the Examiner for stating, in the Office Action, that claims 1-16, 19-20 and 24 are allowed. In the Office Action, the Examiner rejected claim 17 under 35 U.S.C. § 112, second paragraph for alleged indefiniteness. Further, claims 17 and 18 were rejected in the Office Action under 35 U.S.C. § 102, as allegedly anticipated by U.S. Patent No. 5,778,077 to Davison.

35 U.S.C. §112 Rejection

Claim 17 was rejected in the Office Action under 35 U.S.C. §112, second paragraph as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended claim 17 to more clearly provide the antecedent basis that the Examiner asserted was lacking. Accordingly, the section 112 rejection of claim 17 should be withdrawn.

35 U.S.C. §102 Rejections

Claims 17 and 18 are rejected under 35 U.S.C. §102 as being allegedly anticipated by Davison (US 5,778,077). Applicant respectfully disagrees that Davison anticipates, or renders unpatentable in any way, claims 17 and 18.

Amended independent claim 17 recites a method for adjusting an audio level of an audio device comprising, among other things, the steps of "receiving a first audio signal at a remote sensing device; transmitting the received first audio signal to the audio device from the remote sensing device; multiplying, at the audio device, a second audio signal by a volume setting value to produce an adjusted second audio signal;" and "determining, at the audio device, a difference between the first audio signal and the adjusted second audio signal..." (emphasis added). These limitations are not disclosed or suggested by Davison.

Application No.: 09/699,922

Docket No.: 00-4026

Davison discloses a volume adjusting device that uses a microphone to monitor the level of ambient sound produced by an audio device, e.g., a television or stereo. Davison teaches adjusting the volume level of the audio device by transmitting an IR signal to the IR receiver of the audio device. The IR signal includes a learned code and modulation scheme that the audio device will recognize as a VOLUME UP or VOLUME DOWN command from its associated remote control transmitter. (See col. 5, lns. 1-9) Transmitting an IR signal that provides an instruction to the audio device is clearly different than transmitting the actual received audio signal back to the audio device, as is required by claim 17.

Further, Davison does not disclose “determining, at the audio device, a difference between the first audio signal and the adjusted second audio signal...”. Davison clearly states that it is the volume adjusting device that determines the difference between the ambient sound produced by the audio device and a predefined, mutually exclusive volume range stored therein. (Col. 5, lns. 10-30.) Claim 17 in contrast, requires that the determination of a difference between the first and second audio signals is made by the audio device itself.

Davison does not disclose or suggest at least the foregoing limitations of independent claim 17. For at least the foregoing reasons, claim 17 is patentable. Claim 18 is patentable at least by reason of its dependence on claim 17.

Application No.: 09/699,922

Docket No.: 00-4026

CONCLUSION

Applicant respectfully submits that all pending claims are distinguished over the cited prior art and are otherwise in condition for allowance. If the Examiner has any questions or concerns relating to Applicant's response, or believes that any formal matters require clarification, the Examiner is cordially encouraged to telephone the undersigned Applicant's representative.

Applicant believes that no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 07-2347, under Order No. 00-4026 from which the undersigned is authorized to draw. To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to the above account.

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Respectfully submitted,

By

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